

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

09/06/2002

CLERK OF THE COURT
FORM V000A

HONORABLE MICHAEL D. JONES

P. M. Espinoza
Deputy

CV 2001-019224

FILED: _____

CHARLES ST GEORGE KIRKLAND

CHARLES ST GEORGE KIRKLAND
2200 W BETHANY HOME RD #6
PHOENIX AZ 85015-0000

v.

RICK D SHERMAN

SCOT L CLAUS

GLENDALÉ JUSTICE COURT
REMAND DESK CV-CCC

MINUTE ENTRY

This Court has jurisdiction over this appeal pursuant to the Arizona Constitution Article VI, Section 16, and A.R.S. Section 12-124(A).

This court has taken this matter under advisement and reviewed the parties' Memoranda and the record from the Glendale Justice Court.

This case, one in which opposing counsel engaged in actual fisticuffs during a deposition, represents a second appeal from an Injunction Against Harassment granted by the Glendale Justice Court October 3, 2001, quashed October 19, 2001 after a hearing there, but ordered reinstated by this court March 11, 2002.

Physically attacking another attorney displays immaturity and an unacceptable lack of self-control. An attorney, as an officer of

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the court, is responsible for proper behavior at all times. Battery of a fellow attorney discredits lawyers generally and represents a serious breach of professional decorum.¹ In another forum, such an action could result in disciplinary sanctions.

Not surprisingly, each party cites divergent authority and argues the case from a different perspective; however, the controlling statute is A.R.S. 12-1809(H), which states in relevant part:

At any time during the period during which the injunction is in effect, the defendant is entitled to one hearing on written request (emphasis added)

Appellant complains that the injunction interferes with legitimate communications between the parties.² Appellee counters with a claim that the injunction is necessary as a shield against further assault. This court believes the hearing in the Glendale Justice Court addressed each party's concerns and gave each party a full and complete hearing.³ Only one hearing is required.

Appellant correctly asserts that the injunction could interfere with legitimate attorney communication; nevertheless, maintaining proper order among attorneys outweighs Appellant's individual interests. Appellant received the one hearing to which he was entitled. For those cases where future communication between the parties to this action otherwise would be required, Appellant must ensure that alternate counsel is available. The injunction shall remain in effect.

IT IS THEREFORE ORDERED affirming the order of the Glendale Justice Court that denied Appellant's request for an additional hearing.

¹ See generally, ER 3.4, Rule 42, Arizona Rules of Professional Conduct.

² Appellant's memorandum, p. 3.

³ Tape recorded R.T.

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IT IS FURTHER ORDERED remanding this matter to the Glendale
Justice Court for any further matters associated with this case.